

**Letter Report: Full Compliance With Statutory
Requirements for the Disclosure of
Collection Information to Joint Filers
Cannot Be Determined (Fiscal Year 2001)**

August 2001

Reference Number: 2001-10-126

This report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

INSPECTOR GENERAL
for TAX
ADMINISTRATION

August 2, 2001

MEMORANDUM FOR CHIEF, COMMUNICATIONS AND LIAISON

A handwritten signature in black ink, reading "Pamela J. Gardiner".

FROM: Pamela J. Gardiner
Deputy Inspector General for Audit

SUBJECT: Final Letter Report: Full Compliance With Statutory
Requirements for the Disclosure of Collection Information to
Joint Filers Cannot Be Determined (Fiscal Year 2001)

This report presents the results of our review of the Internal Revenue Service's (IRS) compliance with 26 U.S.C. § 6103(e)(8) (Supp. IV 1998).

In summary, the Treasury Inspector General for Tax Administration (TIGTA) could not determine if the IRS fully complied with 26 U.S.C. § 6103(e)(8) requirements for responding to written requests from joint filers. This is the third year in which we have reported our inability to opine on the IRS' compliance with the provisions of 26 U.S.C. § 6103(e)(8).

In response to our Fiscal Year (FY) 1999 report, the IRS committed to studying the possibility of implementing a process for tracking joint filer requests. The IRS' former Collection function completed a 6-month study of the volume of joint filer requests during FY 2000. Based on the results of that study, IRS management decided against implementing a tracking system. As a result, unless some means of identifying and tracking these requests is implemented by the IRS, we will have to continually state in TIGTA's Semiannual Reports to the Congress that we are unable to certify the IRS' compliance with this provision.

In responding to a draft of this report, the Chief Communications and Liaison recognized that this is the third year the TIGTA has been unable to determine compliance with 26 U.S.C. § 6103(e)(8). Because of this condition, he has asked the Director, Legislative Affairs, to solicit a legislative proposal for a formal request to the Congress to consider

the repeal of 26 U.S.C. § 6103(e)(8). The full text of management's comments is included as an appendix.

Please contact me at (202) 622-6510 or Maurice S. Moody, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500, if you have any questions.

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Objectives and Scope

The objectives were to determine compliance with TBOR2 provisions and determine the results of corrective actions resulting from a previous recommendation.

The objectives of this review were to determine if the Internal Revenue Service (IRS) complied with the provisions of the Taxpayer Bill of Rights 2 (TBOR2)¹ related to the disclosure of collection activities to joint filers² and to determine the results of the IRS' corrective actions in response to a recommendation from our Fiscal Year (FY) 1999 statutory joint filer audit.³ To accomplish these objectives, we interviewed management in the Small Business/Self-Employed and Wage and Investment Divisions in the National Headquarters and reviewed applicable documentation.

We performed our review during the period March through May 2001 in accordance with *Government Auditing Standards*. Major contributors to this report are listed in Appendix I. Appendix II contains the Report Distribution List.

Background

The IRS Restructuring and Reform Act of 1998 (RRA 98)⁴ added 26 U.S.C. § 7803(d)(1)(B) (Supp. IV 1998), which requires the Treasury Inspector

¹ Pub. L. No. 104-168, 110 Stat. 1452 (1996) (codified as amended in scattered sections of 26 U.S.C.).

² Disclosure of Collection Activities with Respect to Joint Return, 26 U.S.C. § 6103(e)(8) (Supp. IV 1998).

³ *The Internal Revenue Service's Procedures for Responding to Written Requests for Collection Activity From Joint Filers Vary From Statutory Requirements* (Reference Number 199910077, dated September 1999).

⁴ Pub. L. No. 105-206, 112 Stat. 685 (codified as amended in scattered sections of 2 U.S.C., 5 U.S.C., 5 U.S.C. app., 16 U.S.C., 19 U.S.C., 22 U.S.C., 23 U.S.C., 26 U.S.C., 31 U.S.C., 38 U.S.C., and 49 U.S.C.).

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*The TBOR2 added
26 U.S.C. § 6103(e)(8).*

General for Tax Administration (TIGTA) to review and certify annually whether the IRS is complying with the requirements of 26 U.S.C. § 6103(e)(8).

The TBOR2 added 26 U.S.C. § 6103(e)(8), which gave joint filer taxpayers who are no longer married or no longer reside in the same household the right to receive information regarding the IRS' efforts to collect delinquent taxes on their joint return liabilities. The procedures in 26 U.S.C. § 6103(e)(8) require that the IRS provide, in writing, collection activity information to joint filers if they send in a written request. After passage of the TBOR2, the IRS Disclosure Office issued procedures which stated that if 26 U.S.C. § 6103(e)(8) is not specifically cited in the request, the IRS can provide either an oral or written response, based upon 26 U.S.C. § 6103(e)(7).⁵

The RRA 98 required both the Treasury Department and the Joint Committee on Taxation (JCT) to complete separate studies of the scope and use of provisions regarding taxpayer confidentiality. The JCT issued its study report in January 2000 and recommended 26 U.S.C. § 6103(e)(8) be amended to allow for both oral and written information requests from joint filers. The Treasury Department issued its study report in October 2000 with a similar recommendation to eliminate the requirement that joint filer information requests be in writing. The Treasury Department's report also suggested that the TIGTA's reporting requirement regarding joint filer requests be phased out.

In response to a recommendation in our FY 1999 audit report, the IRS agreed to perform separate analyses by January 2001 in the former National Headquarters Collection and Customer Service functions to determine the volume of written joint filer requests received. IRS management stated that they would use the outcome of these analyses to determine if a centralized management

⁵ Return Information, 26 U.S.C. § 6103(e)(7) (1994).

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control process was warranted to track joint filer requests.

Results

The TIGTA could not determine if the IRS fully complied with the requirements of 26 U.S.C. § 6103(e)(8).

We could not determine if the IRS fully complied with 26 U.S.C. § 6103(e)(8) requirements when responding to all written requests from joint filers because of our inability to identify joint filer requests received nationwide. This condition occurred because the IRS' management information systems do not separately record or monitor joint filer requests. In addition, there is no statutory or regulatory requirement for the IRS to develop a separate system that records or monitors these requests. This is the third year in which we have reported our inability to opine on the IRS' compliance with the provisions of 26 U.S.C. § 6103(e)(8).

Due to a recommendation contained in our FY 1999 report, the former Collection function completed its study in the six participating former district offices to determine the volume of written joint filer requests it received. During this 6-month study, 5 written joint filer requests were received.

The former Collection function completed its 6-month study of joint filer requests.

In our FY 2000 audit,⁶ we reviewed the four written requests received during the first 5 months of the Collection study (January through May 2000). The IRS provided the taxpayers the information requested for two of the cases. The TIGTA could not make a determination for the remaining two cases because the information about the request or the responses were either vague or not available for review.

For this FY 2001 audit, we reviewed the 1 written request received during the last month of the 6-month

⁶ *Letter Report: Compliance With Statutory Requirements for the Disclosure of Collection Information to Joint Filers Cannot Be Determined* (Reference Number 2000-10-148, dated September 2000).

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The former Customer Service function did not conduct its study of the volume of joint filer requests received.

study. In this case, the IRS provided a written response to the taxpayer even though the request did not specifically cite 26 U.S.C. § 6103(e)(8). However, we could not determine if the IRS provided the information requested because the IRS' response did not specify the type of information given to the taxpayer.

Due to the low volume of requests identified in the Collection study, the former National Headquarters Customer Service function did not conduct its study. In May 2001, management in the Small Business/Self-Employed and Wage and Investment Divisions (former Collection, Examination, and Customer Service management) decided not to develop a new management control process to track joint filer information requests in the future. This decision was made because of the low volume of requests received during the Collection study.

Management's Response: The Chief Communications and Liaison recognized that this is the third year the TIGTA has been unable to determine compliance with 26 U.S.C. § 6103(e)(8). However, IRS management does not believe it has a business case for identifying and tracking these requests. Accordingly, the Chief Communications and Liaison has asked the Director, Legislative Affairs, to solicit a legislative proposal for a formal request to the Congress to consider the repeal of 26 U.S.C. § 6103(e)(8).

Conclusion

We could not determine if the IRS fully complied with 26 U.S.C. § 6103(e)(8) requirements when responding to all written requests from joint filers because of our inability to identify requests received nationwide on the IRS' management information systems. IRS management in the Small Business/Self-Employed and Wage and Investment Divisions decided not to develop a new management control process to track joint filer

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requests because of the low volume of requests received during the former Collection function's 6-month study. As a result, unless some means of identifying and tracking these requests is implemented by the IRS, we will have to continually include in TIGTA's Semiannual Reports to the Congress our inability to certify the IRS' compliance with this provision.

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Appendix I

Major Contributors to This Report

Maurice S. Moody, Assistant Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs)

Nancy A. Nakamura, Director

Jeffrey M. Jones, Audit Manager

Cheryl Cerqua, Senior Auditor

Thomas Polsfoot, Senior Auditor

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Appendix II

Report Distribution List

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Appendix III

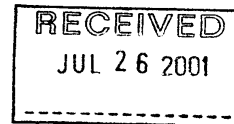
Management's Response to the Draft Report



CHIEF COMMUNICATIONS
AND LIAISON

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUL 26 2001



MEMORANDUM FOR MAURICE S. MOODY
ASSOCIATE INSPECTOR GENERAL FOR AUDIT
(HEADQUARTERS OPERATIONS AND EXEMPT
ORGANIZATIONS PROGRAMS)

From:

David R. Williams *Melina Bratton for*
Chief Communications and Liaison

Subject:

~~Draft Letter Report: Compliance With Statutory~~
Requirements for the Disclosure of Collection Information
to Joint Filers Cannot Be Determined (Fiscal Year 2001)
(Audit Number 2001-10-018)

Thank you for the opportunity to respond to your Draft Letter Report. In response to your Fiscal Year (FY) 1999 report, the IRS studied the possibility of implementing a process for tracking joint filer requests. The IRS' former Collection function completed a 6-month study of the volume of joint filer requests during FY 2000. Based on the results of that study, IRS management made a business decision not to implement a tracking system because of the small number of identified requests. For this FY 2001 audit, you reviewed the 1 written request received during the past month of the 6-month study.

In May 2001, IRS senior management in the Small Business/Self Employed (SB/SE) and the Wage and Investment (W&I) Divisions decided not to develop a new management control process to track joint filer information requests in the future. They made this business decision because of the low volume of requests received. I realize this is the third year in which you have been required to report to Congress of your inability to evaluate our compliance with 26 U.S.C. Section 6103(e)(8). Both of our staffs have worked on addressing this mutual responsibility and IRS management has determined we do not have a business case for identifying and tracking these requests.

I understand you have spoken with both the IRS Commissioner and the Deputy Commissioner on this matter. I am instructing the Director, Legislative Affairs to solicit a legislative proposal for a formal request to the Congress to consider the repeal of this provision as it is contained in the Taxpayer Bill of Rights 2 (TBOR2). Given the identified volume of requests, the IRS management decision not to implement a tracking system, and the resources both of our staffs expend each year to address this recurring issue, it is prudent to ask the Congress to consider this matter.

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I appreciate your support for this proposed plan of action. If you have any questions or concerns, please contact Delena Bratton, Deputy Chief Communications and Liaison at 202-622-4550.